

ASSEMBLY BILL

No. 432

Introduced by Assembly Member Chang

February 19, 2015

An act to amend Sections 17, 581d, 582, and 1003 of the Code of Civil Procedure, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 432, as introduced, Chang. Civil procedure: electronic signatures.

(1) Existing law provides definitions for particular terms used within the Code of Civil Procedure, including the terms “signature” or “subscription,” which are defined to include a mark of a person, when the person cannot write, with his or her name being written near it by a person who writes his or her own name as a witness, as specified.

This bill would provide that the terms “signature” or “subscription” would also include an electronic signature, defined as an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(2) Existing law provides, in a dismissal of an action by a court, that the court is required to sign a written order and file the order in the action, which constitutes a judgment that is effective for all purposes. In all other cases, existing law provides that judgment is required to be rendered on the merits.

This bill would require all judgments to be signed by the court, and would provide that an electronic signature is effective as an original signature.

The bill also would include technical changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17 of the Code of Civil Procedure is
 2 amended to read:
 3 17. (a) Words used in this code in the present tense include
 4 the future as well as the ~~present; words present.~~ Words used in the
 5 masculine gender include the feminine and ~~neuter; the neuter.~~ The
 6 singular number includes the plural and the plural *number includes*
 7 ~~the singular; the word “person” includes a corporation as well as~~
 8 ~~a natural person; the word “county” includes “city and county”;~~
 9 ~~writing includes printing and typewriting; oath includes affirmation~~
 10 ~~or declaration; and every mode of oral statement, under oath or~~
 11 ~~affirmation, is embraced by the term “testify,” and every written~~
 12 ~~one in the term “depose”; signature or subscription includes mark,~~
 13 ~~when the person cannot write, his or her name being written near~~
 14 ~~it by a person who writes his or her own name as a witness;~~
 15 ~~provided, that when a signature is by mark it must, in order that~~
 16 ~~the same may be acknowledged or may serve as the signature to~~
 17 ~~any sworn statement, be witnessed by two persons who must~~
 18 ~~subscribe their own names as witness thereto. *singular.*~~
 19 ~~(b) The following words have in this code the signification~~
 20 ~~attached to them in this section, unless otherwise apparent from~~
 21 ~~the context:~~
 22 ~~(1) The word “property” includes both real and personal~~
 23 ~~property.~~
 24 ~~(2) The words “real property” are coextensive with lands,~~
 25 ~~tenements, and hereditaments.~~
 26 ~~(3) The words “personal property” include money, goods,~~
 27 ~~chattels, things in action, and evidences of debt.~~
 28 ~~(4) The word “month” means a calendar month, unless otherwise~~
 29 ~~expressed.~~
 30 ~~(5) The word “will” includes codicil.~~
 31 ~~(6) The word “writ” signifies an order or precept in writing,~~
 32 ~~issued in the name of the people, or of a court or judicial officer,~~
 33 ~~and the word “process” signifies a writ or summons issued in the~~
 34 ~~course of judicial proceedings.~~

1 ~~(7) The word “state,” when applied to the different parts of the~~
2 ~~United States, includes the District of Columbia and the territories,~~
3 ~~and the words “United States” may include the district and~~
4 ~~territories.~~

5 ~~(8) The word “section,” whenever hereinafter employed, refers~~
6 ~~to a section of this code, unless some other code or statute is~~
7 ~~expressly mentioned.~~

8 ~~(9) The word “affinity,” when applied to the marriage relation,~~
9 ~~signifies the connection existing in consequence of marriage,~~
10 ~~between each of the married persons and the blood relatives of the~~
11 ~~other.~~

12 ~~(10) The word “sheriff” shall include “marshal.”~~

13 *(b) As used in this code, the following words have the following*
14 *meanings, unless otherwise apparent from the context:*

15 *(1) “Affinity” signifies the connection existing in consequence*
16 *of marriage, between each of the married persons and the blood*
17 *relatives of the other when applied to the marriage relation.*

18 *(2) “County” includes “city and county.”*

19 *(3) “Month” means a calendar month, unless otherwise*
20 *expressed.*

21 *(4) “Oath” includes an affirmation or declaration.*

22 *(A) “Depose” includes any written statement made under oath*
23 *or affirmation.*

24 *(B) “Testify” includes any mode of oral statement made under*
25 *oath or affirmation.*

26 *(5) “Person” includes a corporation as well as a natural person.*

27 *(6) “Process” signifies a writ or summons issued in the course*
28 *of a judicial proceeding.*

29 *(7) “Property” includes both personal and real property.*

30 *(A) “Personal property” includes money, goods, chattels, things*
31 *in action, and evidences of debt.*

32 *(B) “Real property” is coextensive with lands, tenements, and*
33 *hereditaments.*

34 *(8) “Section” refers to a section of this code, unless some other*
35 *code or statute is expressly mentioned.*

36 *(9) “Sheriff” includes marshal.*

37 *(10) “Signature” or “subscription” includes both of the*
38 *following:*

39 *(A) An electronic signature, which is an electronic sound,*
40 *symbol, or process attached to or logically associated with an*

1 *electronic record and executed or adopted by a person with the*
2 *intent to sign the electronic record.*

3 (B) *A mark of a person’s name, if the person cannot write, with*
4 *his or her name being written near it by a person who writes his*
5 *or her own name as a witness. In order that a mark may be*
6 *acknowledged or serve as the signature to any sworn statement,*
7 *it shall be witnessed by two persons who shall subscribe their own*
8 *names as witnesses thereto.*

9 (11) *“State” includes the District of Columbia and the territories*
10 *when applied to the different parts of the United States, and the*
11 *words “United States” may include the district and territories.*

12 (12) *“Will” includes codicil.*

13 (13) *“Writ” means an order or precept in writing, issued in the*
14 *name of the people, or of a court or judicial officer.*

15 (14) *“Writing” includes printing and typewriting.*

16 SEC. 2. Section 581d of the Code of Civil Procedure is
17 amended to read:

18 581d. ~~A~~(a) *A written dismissal of an action shall be entered*
19 *in the clerk’s register and is effective for all purposes when so*
20 *entered.*

21 ~~—A—~~

22 (b) *All dismissals ordered by the court shall be in the form of a*
23 *written order signed by the court and filed in the action, and those*
24 ~~orders when so filed shall constitute judgments and be that are~~
25 *effective for all purposes, and the purposes. An electronic signature*
26 *by the court shall be effective as an original signature. The clerk*
27 ~~shall note those the~~ *judgments in the register of actions in the case.*

28 SEC. 3. Section 582 of the Code of Civil Procedure is amended
29 to read:

30 582. *In all other cases judgment shall be rendered on the merits.*
31 *The judgment shall be signed by the court. An electronic signature*
32 *by the court shall be effective as an original signature.*

33 SEC. 4. Section 1003 of the Code of Civil Procedure is
34 amended to read:

35 1003. (a) *Every direction of a court or judge, made or entered*
36 *in writing, and not included in a judgment, is denominated an*
37 *order. An application for an order is a motion.*

1 ***(b) If any provision of this code requires the court to sign an***
2 ***order, an electronic signature shall be effective as an original***
3 ***signature.***

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